

REMARKS

The Office Action mailed September 7, 2005 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

The 35 U.S.C. § 102 Rejection

Claims 1, 3, 5, 9 and 10 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Allerding.¹ This rejection is respectfully traversed.

Claim 1 has been amended to recite a multistage depressed collector (MSDC) having a plurality of electrodes. Claim 9 has been similarly amended to recite two electrodes. This feature is neither disclosed nor suggested by Allerding. Rather, Allerding shows a hollow space resonator having only one electrode, 13.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.² The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. § 102 rejection of claims 1 and 9, and of claims 3, 5 and 10 dependent therefrom, based on Allerding is respectfully urged.

¹ U.S. Patent No. 2,351,895.

² Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The 35 U.S.C. § 103 Rejection

Claims 2, 4, 6, 8, and 11-15 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Allerding in view of Delroy et al.³ This rejection is respectfully traversed.

Claim 2 has been amended to recite a multistage depressed collector (MSDC) having a plurality of electrodes. As discussed, this feature is neither disclosed nor suggested by Allerding, which discloses an electron tube having a single electrode, 13. Nor is this shortcoming of Allerding remedied by Delroy et al., which is also directed at single-electrode devices, even if the two references were properly combinable, which is not conceded by applicants.

It will be appreciated that using a device having multiple electrodes and constructed in the manner of the invention solves unique problems that otherwise would not be confronted by designers of single-electrode devices. These relate to for example maintaining isolation of the electrodes from one another, properly dissipating heat using cooling fluids that may have to be selected to be non-ionic so as to prevent arcing, and providing shielding to prevent shorting by undesired conductive path formation. None of these issues are confronted by designers of single-electrode tubes such as that of Allerding, and therefore their solutions in the manner of the invention would not be suggested or be obvious in view of Allerding.

It will be recalled that according to the Manual of Patent Examining Procedure (M.P.E.P.),

³ U.S. Patent No. 4,358,707.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.⁴

In light of the amendments to claim 2, it is respectfully maintained that the combination of the teachings of Allerding and Delroy does not rise to the level of a proper *prima facie* case of obviousness against claim 2 or claims 4, 6 and 8 dependent thereon, and the withdrawal of the 35 U.S.C. § 103(a) rejection based on same is respectfully requested. A similar argument applies to claim 9 and claims 11-15 dependent thereon, and withdrawal of the 35 U.S.C. § 103 (a) rejection based on Allerding and Delroy is also requested.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.


⁴ M.P.E.P § 2143.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.
Please charge any additional required fee or credit any overpayment not otherwise paid or
credited to our deposit account No. 50-1698.

Respectfully submitted,

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